

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL**JS-6**

Case No. CV 12-5351-CAS-(FMOx) Date September 6, 2012

Title CENTRAL MORTGAGE COMPANY V. BARBARA STEWART

Present: The Honorable CHRISTINA A. SNYDER

CATHERINE JEANG

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants

Not Present

Not Present

Proceedings: (In Chambers:) ORDER REMANDING CASE TO LOS ANGELES COUNTY SUPERIOR COURT**I. INTRODUCTION**

The Court finds this motion appropriate for decision without oral argument. Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing date of September 10, 2012, is hereby vacated, and the matter is taken under submission.

On February 28, 2012, plaintiff Central Mortgage Company d/b/a Central Mortgage Loan Servicing Company filed an unlawful detainer action in the Los Angeles County Superior Court against *pro se* defendant Barbara Stewart. Defendant then filed a demurrer which the superior court overruled. Dkt. No. 1 at 2–3, ¶¶ 8–10.

On June 20, 2012, defendant filed a notice of removal to this Court pursuant to 28 U.S.C. § 1441(a) and/or (b). Defendant asserted that this Court has jurisdiction based on federal question pursuant to 28 U.S.C. § 1331. Specifically, defendant argued that a federal question exists under The Protecting Tenants at Foreclosure Act, 12 U.S.C. § 5220. Dkt. No. 1 at 2–3, ¶¶ 8–10.

Plaintiff filed a motion to remand on August 6, 2012. Defendant has not filed a reply.

II. ANALYSIS

The law is clear that “[u]nlawful detainer actions are strictly within the province of state court.” Federal Nat’l Mort. Assoc. v. Suarez, 2011 U.S. Dist. LEXIS 82300, *6

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(E.D. Cal. Jul. 27, 2011); Deutsche Bank Nat'l Trust Co. v. Leonardo, 2011 U.S. Dist. LEXIS 83854, *2 (C.D. Cal. Aug. 1, 2011) (“[T]he complaint only asserts a claim for unlawful detainer, a cause of action that is purely a matter of state law.”). A defendant’s attempt at creating federal subject matter jurisdiction by adding claims or defenses to a notice of removal must fail. McAtee v. Capital One, F.S.B., 479 F.3d 1143, 1145 (9th Cir. 2007).

Here, the only claim asserted by plaintiff is for unlawful detainer against defendant. See Dkt. No. 1. Defendant cannot create federal subject matter jurisdiction by adding claims or asserting defenses, as defendant has done here. McAtee, 479 F.3d at 1145. Accordingly, the Court lacks subject matter jurisdiction and must remand. Suarez, 2011 U.S. Dist. LEXIS 82300 at *6.

In accordance with the foregoing, the action is hereby REMANDED to the Los Angeles County Superior Court.

IT IS SO ORDERED.

Initials of Preparer

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CMJ